

STATE OF DELAWARE
OFFICE OF
AUDITOR OF ACCOUNTS

DEPARTMENT OF CORRECTION

PRISON COMMISSARY

SPECIAL INVESTIGATION

FIELDWORK END DATE: JANUARY 13, 2009

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State of Delaware
Office of Auditor of Accounts
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At a Glance

Working Hard to Protect YOUR Tax Dollars

Why We Did This Review

The Office of Auditor of Accounts (AOA) received the following Hotline allegations regarding James T. Vaughn Correctional Center (JTVCC):

1. Mark-ups on commissary products exceed the allowable amount of 20%.
2. JTVCC does not follow a bid process to ensure that commissary products are purchased at the lowest available price.
3. Inmate commissary funds are improperly used to purchase fences, security cameras, and other operational items for JTVCC.
4. When vendor prices increased, the price increases were applied not only to the commissary products purchased at the new price, but also to commissary products that were purchased at a lower rate.

Background

The Delaware Department of Correction (DOC) supervises about 7,000 inmates in its prisons and approximately 17,000 probationers in the community. The Department is the only government operated correction agency in the State.

Delaware Department of Correction maintains an inmate commissary fund. Money generated from mark-up of items sold to inmates from commissary are deposited into the commissary fund and used to purchase items for inmates that are not covered by the department's annual budget.

For further information on this release, please contact:

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DEPARTMENT OF CORRECTION- PRISON COMMISSARY

What We Found

- AOA found that the markup of selected commissary items ranged from 1.47% to 45.76%. Of the 38 items reviewed, 4 commissary items were sold at a markup price greater than 20% and 1 commissary item was sold at a marked down amount of 30%.
- AOA determined that JTVCC's commissary account is not subject to State bid laws.
- AOA found that commissary price increases are applied consistently to inventory balances, which is a standard industry practice.
- The commissary account balances at July 1, 2007 and June 30, 2008 were \$534,943 and \$450,100, respectively. Based on monthly activity, it appears as though the commissary account balance is high.

What We Recommend

AOA recommends that JTVCC:

- Adhere to DOC Policy and adjust the price of items on the commissary price list to be within the allowable maximum 20% surcharge.
- Adjust the price of items on the commissary price list to ensure that items are not sold at a loss.
- Develop a written policy/procedure addressing the purchase of commissary items. The policy should address (but not be limited to) quotes, price comparisons, and vendor analysis.
- Maintain documentation to support that vendor quotes were received, that price comparisons were performed, and that vendors were analyzed for the purchase of commissary items.

AOA recommends that DOC review the commissary account, determine if the balance is reasonable, and document the results of the review.

Please read the complete report for a full list of findings/recommendations and to review the DOC's response to our findings.

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AUDIT AUTHORITY

Title 29, Del. C. c. 29 authorizes the Auditor of Accounts to file written reports containing:

1. Whether all expenditures have been for the purpose authorized in the appropriations;
2. Whether all receipts have been accounted for and paid into the State Treasury as required by law;
3. All illegal and unbusinesslike practices;
4. Recommendations for greater simplicity, accuracy, efficiency, and economy; and
5. Such data, information, and recommendations as the Auditor of Accounts may deem advisable and necessary.

ALLEGATION AND BACKGROUND

ALLEGATION

The Office of Auditor of Accounts (AOA) received the following Hotline allegations regarding James T. Vaughn Correctional Center (JTVCC):

1. Mark-ups on commissary products exceed the allowable amount of 20%.
2. JTVCC does not follow a bid process to ensure that commissary products are purchased at the lowest available price.
3. Inmate commissary funds are improperly used to purchase fences, security cameras, and other operational items for JTVCC.
4. When vendor prices increased, the price increases were applied not only to the commissary products purchased at the new price, but also to commissary products that were purchased at a lower rate.

BACKGROUND

The Delaware Department of Correction (DOC) supervises about 7,000 inmates in its prisons and approximately 17,000 probationers in the community. The Department is the only government operated correction agency in the State.

Delaware Department of Correction maintains an inmate commissary fund. Money generated from mark-up of items sold to inmates from commissary are deposited into the commissary fund and used to purchase items for inmates that are not covered by the department's annual budget.

Delaware has five adult correctional facilities. The Delores J. Baylor Women's Correctional Institution (BWCI) is Delaware's only female correctional facility. The James T. Vaughn Correctional Center, the Howard R. Young Correctional Institution (HRYCI) and the Sussex Correctional Institution (SCI) provide incarceration at all security levels to male populations (HRYCI accommodates a small juvenile population in the Young Criminal Offenders Program-YCOP). The John L. Webb Correctional Facility is a minimum-security male facility.

DOC policy permits the correctional facilities to maintain commissaries. The commissaries are a system of supplying food, hygiene items, medical items, and clothing not otherwise provided to individuals housed in DOC facilities. DOC Policy Number 3.9 establishes the rules for commissary funds.

OBJECTIVES, SCOPE, & METHODOLOGY

OBJECTIVES

The objectives of the investigation were:

- To determine the propriety of commissary inventory pricing.
- To determine the propriety of the vendor selection process.
- To determine the propriety of commissary purchases.

SCOPE

The scope of the investigation was for the period of July 1, 2007 through September 30, 2008.

The investigation was performed in accordance with the President's Council on Integrity and Efficiency, *Quality Standards for Investigations*.

METHODOLOGY

Investigative techniques included:

- Interviews and inquiry.
- Inspection and confirmation.

CONCLUSIONS

Allegation 1: Mark-ups on commissary products exceed the allowable amount of 20%.

DOC Policy Number 3.9 states, "Facilities shall not subsidize the price of commissary items, but shall charge a surcharge of up to 20% on all items sold." AOA selected a sample of 38 commissary items to determine the propriety of commissary markups. AOA found that the markup of the items ranged from 1.47% to 45.76%. Of the items reviewed, 4 commissary items were sold at a markup price greater than 20% and 1 commissary item was sold at a marked down amount of 30%:

<u>Item</u>	<u>Original Purchase Price per Invoice</u>	<u>Commissary Sales Price</u>	<u>Markup/(Markdown) Percentage</u>	<u>Price at 20% Markup</u>
Cross, Silver with chain	\$27.70	\$37.19	34.26%	\$33.24
Safeguard (4.3 oz)	.59	.86	45.76%	.71
Pencil	.10	.07	(30.00%)	.12
Hot Chips	1.16	1.43	23.28%	1.39
Ginger Ale (20 oz)	.56	.71	26.79%	.67

AOA concludes that the majority of commissary items are priced within the guidelines set forth by DOC Policy Number 3.9, with many items being priced below the maximum surcharge of 20%. However, AOA finds the allegation is partially substantiated due to certain commissary items being priced above the allowable 20% surcharge.

Allegation 2: JTVCC does not follow a bid process to ensure that commissary products are purchased at the lowest available price.

Inmates use their own funds (e.g., funds received from family members and from wages earned) to purchase commissary items. State funds are not used to subsidize the commissary fund; hence, State bid laws do not apply to purchases of commissary items. AOA determined that JTVCC does not have any formal process in place to ensure that products are purchased at the best available price. Documentation is not maintained to support that quotes are requested and received from vendors and that an analysis is performed to ensure that commissary items are purchased at a reasonable price.

AOA concludes that this allegation is unsubstantiated in that JTVCC is not required to follow a bid process as it relates to purchases of commissary items. However, it would be beneficial to develop a formal policy/procedure addressing the purchase of commissary items.

Allegation 3: Inmate commissary funds are improperly used to purchase fences, security cameras, and other operational items for JTVCC.

AOA selected a sample of fifty-three commissary fund purchases totaling \$255,522.82. AOA determined that the purchases were in accordance with DOC Policy Number 3.9.

AOA concludes that this finding is unsubstantiated.

CONCLUSIONS

Allegation 4: When vendor prices increase, the price increases are applied not only to the commissary products purchased at the new price, but also to commissary products that were purchased at a lower rate.

AOA found that price increases are applied consistently to inventory balances. This is a standard industry practice. For example, one would not go to a store and expect to see two of the same-brand candy bars priced differently. This allegation is unsubstantiated.

FINDINGS AND RECOMMENDATIONS

Finding #1 – Commissary Markup

Criteria

DOC Policy Number 3.9 states, "Facilities shall not subsidize the price of commissary items, but shall charge a surcharge of up to 20% on all items sold."

Condition

AOA selected a sample of 38 commissary items to determine the propriety of commissary markups. Of the items reviewed, 4 commissary items were sold at a markup price greater than 20% and 1 commissary item was sold at a marked down amount of 30%.

Cause

JTVCC's understanding was that the 20% markup was based on an aggregate cap, not per individual item.

Effect

JTVCC's misunderstanding with Policy Number 3.9 resulted in JTVCC overcharging inmates for certain commissary items and selling one commissary item at a loss.

Recommendation

JTVCC should:

- Adhere to DOC Policy Number 3.9.
- Adjust the price of items on the commissary price list to be within the allowable maximum 20% surcharge.
- Adjust the price of items on the commissary price list to ensure that items are not sold at a loss.

Auditee Response

The DOC acknowledges the condition identified in finding #1 and will make the necessary pricing adjustments.

Finding #2 – Policies and Procedures

Criteria

The State of Delaware *Budget and Accounting Manual* Chapter II states, "A well designed system of controls must include written policies and procedures to ensure that each control objective is met."

Internal Control – Integrated Framework, published by the Committee of Sponsoring Organization of the Treadway Commission (COSO), defines control activities as policies and procedures that help ensure management directives are carried out. Control activities occur throughout an organization, at all levels and functions, and include a wide range of activities, such as authorizations, verifications, reconciliations, reviews of operating performance, security of assets, and segregation of duties. To ensure control activities meet the objectives of management, written policies and procedures need to be established, communicated to employees and documented.

FINDINGS AND RECOMMENDATIONS

Condition

JTVCC does not have an internal policy to competitively search for vendors to ensure that commissary items are purchased at the best price possible.

Cause

Lack of knowledge caused management to not develop an internal policy for purchases of commissary items from various vendors.

Effect

Lack of written policies and procedures regarding the purchase of commissary items increases the risk of items being purchased at an unfavorable price.

Recommendation

JTVCC and/or DOC should:

- Develop a written policy/procedure addressing the purchase of commissary items. The policy should address (but not be limited to) quotes, price comparisons, and vendor analysis.
- Maintain documentation to support that quotes were received, that price comparisons were performed, and that vendors were analyzed.

Auditee Response

The DOC acknowledges the condition identified in finding #2 and will incorporate the auditor's recommendation in a DOC policy.

Finding #3 – Commissary Account Balance**Criteria**

DOC Policy Number 3.9 states, "The profit from commissary sales shall be used, at the discretion of the applicable Bureau Chief for the health and welfare of the offenders. Appropriate expenses to be charged against the commissary profit shall include, but in no way be limited to, recreational equipment for the offenders, materials for the offender law libraries, legal mail postage and stationery for indigent offenders and items needed to support the inmate population."

Condition

The commissary account balances at July 1, 2007 and June 30, 2008 were \$534,943 and \$450,100, respectively. Average receipts and disbursements for the commissary accounts for Fiscal Year 2008 were \$157,995 and \$165,066, respectively. The highest monthly receipts and disbursements totals for Fiscal Year 2008 were \$183,704 in April 2008 and \$187,482 in January 2008, respectively. Based on monthly activity, it appears as though the commissary account balance is high.

Cause

JTVCC staff indicated that the commissary account is historically maintained at a high balance to ensure adequate cash availability for commissary purchases.

FINDINGS AND RECOMMENDATIONS

Effect

Maintaining the balance at a level substantially above that required for monthly purchases could lead to perceptions that (a) inventory mark-ups are excessive, and (b) that commissary profits are held versus being used for the health and welfare of inmates.

Recommendation

DOC should review the commissary account, determine if the balance is reasonable, and document the results of the review. DOC should consider decreasing the mark-up percentages or utilizing more of the profit for the health and welfare of the inmates.

Auditee Response

The DOC acknowledges the condition identified in finding #3 and will evaluate markup margins and dispersions.

DISTRIBUTION OF REPORT

Copies of this report have been distributed to the following public officials:

Executive

The Honorable Jack A. Markell, Governor, State of Delaware

Legislative

The Honorable Russell T. Larson, Controller General, Office of the Controller General

Other Elective Offices

The Honorable Joseph R. Biden III, Attorney General, Office of the Attorney General

Other

The Honorable Carl C. Danberg, Commissioner, Department of Correction